

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

MICHAEL LEE HANSON,

Plaintiff,

vs.

CASCADE COUNTY ATTORNEY'S
OFFICE, CASCADE COUNTY
SHERIFF'S OFFICE, GREAT FALLS
HUMANE SOCIETY,

Defendants.

CV 08-53-GF-SEH-RKS

**AMENDED FINDINGS AND
RECOMMENDATIONS OF
MAGISTRATE JUDGE**

PROCEDURAL HISTORY

The complex procedural history of this case was set forth in this Court's previous findings and recommendations, which are currently pending before the Honorable Sam E. Haddon. (C.D. 65.) Since the findings and recommendations were filed, Mr. Hanson sought to

amend his complaint. (C.D. 73.) The undersigned recommended denial of that motion, which also is pending before the Honorable Sam E. Haddon. (C.D. 78.)

Defendant Humane Society of Cascade County ("HSCC")¹ also moved to dismiss Mr. Hanson's claims against it. (C.D. 74.) Mr. Hanson responded (C.D. 80), and briefing on the motion to dismiss is complete.

JURISDICTION AND VENUE

The Court has jurisdiction pursuant to 28 U.S.C. § 1331. The case is referred to the undersigned to issue findings and recommendations by Order of the Honorable Sam E. Haddon. (C.D. 63.) See also 28 U.S.C. § 636. Venue is proper. 28 U.S.C. § 1391.

FACTUAL BACKGROUND

This case's lengthy factual background was discussed in the Court's prior findings and recommendations, and for the sake of brevity will not be recited here. See C.D. 65. Those facts are equally applicable to Defendant HSCC and the current motion.

¹ The Humane Society of Cascade County ("HSCC") is the actual name of Defendant Great Falls Humane Society.

DISCUSSION

Mr. Hanson's claims against the HSCC are barred for the same reasons stated in the Court's findings and recommendations regarding the Cascade County Attorney's Office and the Cascade County Sheriff's Office ("County Defendants"). See C.D. 65.

Mr. Hanson's response to HSCC's motion simply restates in rambling fashion, and in many instances expands on, all his prior claims relating to the warrantless entry onto the property at 77 Wexford Lane, the seizure of animals on that property, and his deferred prosecution agreement. It does not address the HSCC's subject matter jurisdiction arguments in any way.

Mr. Hanson's claims regarding the warrantless entry, the seizure of animals, and his deferred prosecution agreement are barred by the Rooker-Feldman doctrine. Reusser v. Wachovia Bank, N.A., 525 F.3d 855, 855-59 (9th Cir. 2008). Federal court adjudication of those claims would undercut prior state court judgments or constitute *de facto* appeals of state

court orders. Id.

Further, Mr. Hanson's potential Equal Protection claim fails, again for the reasons stated in the Court's previous findings and recommendations. See C.D. 65. He has provided no authority for his allegation that his right as a Christian Native American to operate a no-kill animal refuge was violated. He has alleged no facts, other than conclusory allegations, that would give rise to even an inference the HSCC intentionally discriminated against him. See Monteiro v. Tempe Union High School Dist., 158 F.3d 1022, 1026 (9th Cir. 1987).

Finally, for the same reasons set forth in the Court's previous findings and recommendations, the Court should decline to exercise supplemental jurisdiction over any state claims alleged by Mr. Hanson. 28 U.S.C. § 1367(c)(3); Ove v. Gwinn, 264 F.3d 817, 826 (9th Cir. 2001) citing San Pedro Hotel Co., Inc. v. City of Los Angeles, 159 F.3d 470, 478 (9th Cir. 1998)(district court not required to provide explanation when declining supplemental jurisdiction

under § 1367(c)(3)).

Therefore, **IT IS HEREBY RECOMMENDED** that:

1. Defendant HSCC's motion to dismiss (C.D. 74) should be **GRANTED**;

2. Mr. Hanson's federal claims against the HSCC should be **DISMISSED** for lack of jurisdiction;

2. the Court should decline to exercise supplemental jurisdiction over Mr. Hanson's remaining state claims and **DISMISS** them without prejudice.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to these Findings and Recommendations within fourteen (14) business days of the date entered as indicated on the Notice of Electronic Filing. A district judge will make a de novo determination of those portions of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole

or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge.

DATED this 1st day of December, 2009.

/s/ Keith Strong
Keith Strong
United States Magistrate Judge